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Report of the United Nations High Commissioner for Refugees, questions relating to refugees, returnees and displaced persons and humanitarian questions

Assistance to unaccompanied refugee minors

Report of the Secretary-General**

Summary

In its resolution 56/136 adopted on 19 December 2001, the General Assembly noted the efforts of the Office of the United Nations High Commissioner for Refugees and other organizations to protect and assist unaccompanied refugee minors. The Assembly bore in mind that those refugees were among the most vulnerable and the most at risk of neglect, violence, forced military recruitment and sexual assault and therefore required special assistance and care. The Assembly also requested the Secretary-General to report at its fifty-eighth session on the implementation of the present resolution and to give special attention in his report to the girl-child refugee.

The present report provides information on action taken in respect of those concerns by the Office of the United Nations High Commissioner for Refugees; by other members of the United Nations system, notably the United Nations Children's Fund, the Office of the United Nations High Commissioner for Human Rights, the Office for the Coordination of Humanitarian Affairs and the Office of the Special Representative of the Secretary-General for Children and Armed Conflict; and by other organizations.

* A/58/150.

** The report was late owing to constraints *in collecting timely information from the field.*

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I. Introduction

1. Children are at increased risk of becoming separated from their families and caregivers in the turmoil of conflict and flight. "Unaccompanied children" (also referred to as "unaccompanied minors") are children under 18 years of age who are separated from both parents and are not being cared for by an adult who by law or by custom is responsible to do so. However, there are also children who are accompanied by extended family members but have been separated from both parents or from their previous legal or customary primary caregiver. Those children face risks similar to those of unaccompanied children, and their protection needs also require priority attention.

2. Unaccompanied and separated children are entitled to international protection under international human rights law, international refugee law, international humanitarian law and various regional instruments. They require immediate protection and assistance as they are facing increased risks, notably, those of military recruitment; sexual exploitation, abuse and violence; forced labour; irregular adoption; trafficking; discrimination, both within temporary care arrangements and in the community; and lack of access to education and recreational activities. Both girls and boys are at risk, but girls are often the principal targets of sexual exploitation, abuse and violence. Girls are also often more disadvantaged than boys in terms of education. Girls who are unaccompanied and separated, including those living in foster care or heading a household, are at particular risk.

3. The Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF) and other organizations working in the field share a common aim to prevent separation whenever possible; to identify children who have become separated from their families; to trace and reunify them with their families in a timely manner, if in the best interests of the child; and to ensure that they receive the necessary protection and care, taking into account the specific needs of girls.

II. A rights-based approach

A. Convention on the Rights of the Child

4. The 1989 Convention on the Rights of the Child and its Optional Protocols, in conjunction with the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, as well as other relevant international and regional instruments, constitute the normative framework on which UNHCR and other organizations base their international protection and assistance activities for refugee children and for other children of concern to UNHCR.

5. By its resolution 54/263 of 25 May 2000 (annex I), the General Assembly adopted the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The Optional Protocol entered into force on 12 February 2002. To date, 111 States have signed and 54 States have ratified it. The Optional Protocol represents an important step towards ending the use of children under the age of 18 in hostilities. It raises the age at which direct participation in hostilities is permitted from 15 to 18 years and establishes a ban on

compulsory recruitment below 18 years. States parties are also required to raise the minimum age for voluntary recruitment to at least 16 years and to indicate in a binding declaration, upon ratification or accession, which minimum age they have chosen, as well as the steps they will take to ensure that such recruitment is never forced or coerced. In addition, armed groups distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years. In that respect, States parties shall take all feasible measures to prohibit and criminalize such practices.

6. A second Optional Protocol to the Convention on the Rights of the Child, on the sale of children, child prostitution and child pornography, was also adopted by the General Assembly in its resolution 54/263 (annex II). The Optional Protocol entered into force on 18 January 2002. To date, 105 States have signed and 60 States have ratified it. The Optional Protocol calls on States parties to prohibit the sale of children, child prostitution and child pornography and to criminalize in their national legislation as a minimum, inter alia, the offering, delivering or accepting of children for purposes of sexual exploitation, transfer of organs for profit or engagement in forced labour.

7. UNHCR launched the Global Consultations on International Protection in late 2000 to engage States and other partners in a dialogue on refugee protection. The outcome document, the Agenda for Protection,[1] was endorsed by the Executive Committee of UNHCR in its general conclusion on international protection[2] and welcomed by the General Assembly in its resolution 57/187 of 4 December 2002. The Agenda is an ambitious yet practical programme of action to improve the protection of the rights of refugees and asylum-seekers around the world. Certain themes, such as the protection of refugee children, are mainstreamed in the Agenda. The specific needs of unaccompanied and separated refugee children during asylum procedures are specifically highlighted, as are the need to arrange for their temporary placement in foster families or for the appointment of State or non-State guardians and the need to monitor such arrangements.

B. Action for the Rights of Children

8. Action for the Rights of Children (ARC) is a rights-based training and capacity-building initiative that aims to increase the capacity of United Nations organizations, Government and non-governmental organization staff to protect and care for children in emergencies through the durable solutions phase. ARC is an inter-agency initiative that includes UNHCR, the International Save the Children Alliance, UNICEF and the Office of the United Nations High Commissioner for Human Rights (OHCHR). ARC plays an important role in disseminating information on experience gained in protecting and assisting unaccompanied and separated children in the field. Its comprehensive resource materials include a module that focuses specifically on issues concerning unaccompanied and separated children.[3] In January 2002, coordination of ARC was transferred from UNHCR to a newly established International Save the Children Alliance office in Geneva.

9. The inter-agency approach has also been strengthened at the regional level with the creation of ARC steering committees in West Africa and Southern Africa and in the East and Horn and Great Lakes regions of Africa. In those regions the UNHCR senior regional advisers for refugee children, in collaboration with their

counterparts at UNICEF and the International Save the Children Alliance, are present to monitor and follow up on the activities. The steering committees have been integrated into larger child protection networks, which have a broader scope and membership.

10. In 2002, a revision of the ARC strategy was initiated in Guinea, Liberia and Sierra Leone, with a strengthened emphasis on national rather than regional training, the inclusion of senior-level participants and the creation of national networks. Those efforts were complemented by measures to engage and empower communities to identify and respond to child protection issues. As a result, the concerned communities in Liberia took further steps to prevent militia movements into the refugee camps, thereby restricting contact with the children. In another instance, women organized themselves to restrict the sale of drugs to children.

11. The geographical scope of ARC training and capacity-building activities relating to unaccompanied and separated children was expanded during the reporting period. The activities involved staff members from United Nations bodies, non-governmental organization and government counterparts and, in some instances, representatives from refugee communities. ARC workshops were conducted, inter alia in the Great Lakes region of Africa and in Southern Africa, with specific emphasis on the repatriation process of Angola. ARC resources were also used in training initiatives in Eastern Europe to address the protection needs of unaccompanied and separated children seeking asylum in that region. In Eastern Asia, a train-the-trainers workshop on separated children was organized in Thailand, where the number of unaccompanied and separated children is high. As part of the post-war initiatives in Afghanistan, specific emphasis was put on community mobilization and children's rights. In 2003, as part of the contingency planning for the Iraq crisis, UNICEF, Save the Children and UNHCR conducted a workshop in Jordan and another with OHCHR in Lebanon. ARC training was also organized for Save the Children Norway and Save the Children Sweden stand-by roster members and for the staff of several organizations in Geneva.

12. An interesting example of the use of the ARC material is that of Radio Kwizera of the Jesuit Refugee Service, which broadcasts in Ngara and Kibondo in the United Republic of Tanzania, covering all camps and refugee-affected areas. Children are interviewed, as are UNICEF staff, refugee adults, teachers, government staff, heads of non-governmental organizations and religious leaders, allowing information-sharing on children's issues.

13. In 2002, UNICEF and OHCHR officially endorsed Action for the Rights of Children, thereby allowing their logos to be added to those of UNHCR and the International Save the Children Alliance on ARC material. In 2003, an updated Action for the Rights of Children CD-ROM was sent to all UNHCR and OHCHR offices in the field as well as to concerned headquarters staff. Other ARC partner agencies are in the process of doing the same. ARC has also been included in the UNICEF global capacity-building budget for 2003 as part of its regional activities and will be included in the OHCHR Annual Appeal for 2004, to enable the Office's field staff to participate in local and regional ARC training.

C. Separated Children in Europe Programme

14. In Western and Central Europe, action taken as part of the Separated Children in Europe Programme (SCEP), an initiative of the Office of the United Nations High Commissioner for Refugees and the International Save the Children Alliance, resulted in the adoption of asylum legislation in some of the countries, which included specific provisions to ensure the protection of separated children seeking asylum. In Ireland, for instance, increased arrivals of separated children led to an informal agreement among all parties involved on special procedures for processing the asylum claims of such children. The procedures were partially formalized in interim guidelines issued late in 2001. In Austria, arrangements were put in place with regard to the care and maintenance of separated asylum-seeking children so that they could initially be accommodated in clearing houses for three months until a proper solution could be found.

15. Information and material gathered through the Programme and a UNHCR bibliography were made available on the Programme's web site,[4] which continued to have a high frequency of visits. In addition, a bimonthly SCEP newsletter, circulated to non-governmental organizations and UNHCR offices in the countries covered by the Programme, continued to be produced by UNHCR with support from Save the Children. In 2001, a first statistical report on separated children in Europe was produced, with additional statistics provided in 2002.

16. The Separated Children in Europe Programme came to a close at the end of 2002. An evaluation of the Programme by an external consultant was made available in June 2003. Follow-up activities to the Programme will be undertaken within respective country programmes in Europe. Necessary support will be provided at the Headquarters level by the senior regional adviser for refugee children in the Regional Bureau for Europe, as well as by the Refugee Children Coordination Unit. Material developed under the Programme has also been included as resource material on the Action for the Rights of Children CD-ROM.

17. Elsewhere in the world, new legislation drawing on the SCEP has been introduced, for example in New Zealand, which expressly provides for the needs of unaccompanied and separated children who may seek asylum. In Canada, a roundtable in October 2001 on the situation of separated asylum-seeking children brought together federal and provincial authorities, child welfare agencies, refugee and child protection advocates and legal practitioners, and identified helpful approaches to filling gaps in the provision of protection and care.

III. Global priority issues relating to refugee children

A. Family tracing and reunification

18. In cooperation with UNICEF, the International Committee of the Red Cross, the International Rescue Committee, other United Nations bodies, non-governmental organizations and other operational partners, UNHCR has emphasized family tracing and reunification as the most important durable solution for unaccompanied and separated refugee children. The core principle is family reunification, provided it is in the best interests of the child. Close cooperation with other organizations and Governments in countries of asylum and of return is crucial for positive results.

19. Unaccompanied and separated children face an increased risk of military recruitment, sexual exploitation, abuse and violence, and forced labour. The children need immediate protection and assistance. An important development in addressing their rights and needs has been the issuance of the Inter-Agency Guiding Principles on Unaccompanied and Separated Children in 2003. Developed and endorsed by the International Committee of the Red Cross, UNICEF, UNHCR, the International Rescue Committee, Save the Children UK and World Vision International, the Guiding Principles constitute a valuable tool for inter-agency collaboration. The most important steps in working with unaccompanied and separated children are rapid identification, immediate registration and documentation and the tracing of family, again, leading to reunification if it is in the child's best interest. Those steps should be accompanied by the appointment of a guardian and temporary placement in a foster family where the well-being of the child can be monitored.

20. The rights and interests of children affected by conflict were emphasized at the special session of the General Assembly on children in May 2002. In his statement, the High Commissioner for Refugees drew specific attention to family separation, as well as to other issues such as exploitation, education, the specific needs of adolescents and the protection needs of refugee children in the wider context of humanitarian interventions. The outcome document of the special session, "A world fit for children",[5] also highlighted the need to give priority to programmes for family tracing and reunification and to continue to monitor the care arrangements for unaccompanied and/or separated refugee and internally displaced children.

21. In Nzerekore, Guinea, UNHCR organized a subregional meeting in June 2002 on the prevention of family separation and the development of a mass tracing strategy, involving all major child protection organizations dealing with unaccompanied and separated children in Côte d'Ivoire, Guinea and Liberia. Other issues discussed were coordination and rapid tracing mechanisms linked to cross-border information-sharing. In Thailand, unaccompanied and separated children in the camps were identified and registered in a database through the Catholic Office for Emergency Relief and Refugees, the implementing partner that also undertook regular home visits to the children. Any cases of neglect, exploitation or abuse were reported to UNHCR and the Thai authorities.

22. The prevention of separation was also highlighted in UNHCR repatriation operations, notably, those in Afghanistan, Angola, the Democratic Republic of the Congo, Ethiopia, Guinea, Liberia, Pakistan, Rwanda, Sierra Leone, Somalia and Zambia. Preventive measures were taken in both countries of asylum and countries of origin, and protection and care mechanisms were put in place to meet the special needs of unaccompanied and separated children, before, during and upon their return. They were also normally the last to be repatriated. There was close cooperation with such agencies as the International Committee of the Red Cross and UNICEF in Angola, for example, where technical support was provided to the Government's national family tracing and reunification programme, ensuring rapid identification, family tracing and reunification. Cross-border tracing was undertaken using a common registration form, in close collaboration with the Governments in the countries of asylum, supported by a database created by the International Committee of the Red Cross.

23. Resettlement is another durable solution, normally sought only after extensive family tracing has taken place and proven unsuccessful. If the child's family has

been identified in a third country, family reunification is sought through resettlement. Moreover, if family reunification is not possible, resettlement is undertaken from areas where the special needs of the group cannot be adequately met. However, some Governments do not accept the entry of a refugee's immediate family members as part of a family reunification. UNHCR and other partners have continued to advocate changing such practices or finding other solutions in such cases. A significant development in the protection of unaccompanied and separated refugee children was the launching, in December 2002, of best interest determination procedures for Sudanese refugee children in camps in western Ethiopia. Specialist staff were recruited to conduct the procedures and have been piloting the best interest guidelines developed by UNHCR. The draft guidelines have been shared with implementing partners in Ethiopia, including Save the Children Sweden and the International Rescue Committee, and the specialist staff conducting the procedures are working closely with staff in the camps. The guidelines emphasize the need to conduct a comprehensive review of the best interests and the most appropriate durable solution for each unaccompanied and separated child, after an assessment of his/her environment, family tracing and reunification prospects. The solutions being considered for the children include inter-camp family reunification after tracing, continued temporary camp residence and resettlement.

24. UNHCR is working with Governments to enhance the process of family reunification and with individuals and communities to respond to the special protection and care needs of unaccompanied and separated children. Integrating the protection and assistance of the children into a broader child protection strategy leads to common responsibility for the group and diminishes the risk of stigmatization. Through community mobilization, including the active participation of the children themselves, and awareness-raising of children's rights and developmental needs, refugees are empowered to take action themselves. A study by Save the Children UK in Liberia underlined the importance of focusing on the part children play as social actors within communities, in order to perceive children not merely as passive victims of abuse and exploitation, but rather as potentially powerful agents in child protection. In Côte d'Ivoire, emphasis was put on involving the community in identifying unaccompanied and separated children and, to prevent separation, community-based organizations were strengthened through capacity-building activities by Save the Children UK, using ARC materials.

25. Another critical challenge related to family reunification has been the failure of foster families or caregivers to return the child to his or her previous primary customary or legal caregiver. In Indonesia, UNHCR has been particularly concerned about unaccompanied children from Timor-Leste who remain under the care of *pesantren*, Islamic boarding schools, and children recruited by *yayasan*, organizations set up by pro-integration activists.

26. Problems can also occur once children are reunited with their families. Many children return to a very poor environment, as many parents have no regular income during or after a conflict situation and may live in very remote areas. Some children returning to Timor-Leste were worried about their future education. UNHCR responded to those concerns with measures to help secure the children's access to secondary and/or vocational schooling and psychosocial counselling.

27. Family tracing sometimes results in placing the child with relatives with whom the child may have had only limited previous contact. It is therefore important to provide follow-up for children who have been reunited with their family or extended family and to identify which organization will be responsible for that task.

28. Children orphaned by the acquired immunodeficiency syndrome (AIDS) are an increasing concern, as they are at risk of abuse, exploitation and recruitment into armed groups and forces. They often have limited access to education, health care and basic necessities. Those risks make children more vulnerable to infection by the human immunodeficiency virus (HIV). Not only do orphaned children have to cope with the difficulties faced by children in emergencies in general, but may also have to deal with witnessing the death of their parents after months of illness, often without fully understanding what has happened. The psychosocial trauma and possible discrimination from community members who fear HIV can be devastating. The Inter-Agency Standing Committee task force on HIV/AIDS in emergency settings has developed an action sheet on how to programme for children orphaned by AIDS in a conflict setting. In Somalia, UNHCR has begun to address the plight of children orphaned by AIDS on a case-by-case basis, by working with friends and families as well as with the implementing partner, Save the Children USA. The UNHCR HIV/AIDS strategic plan for 2002-2004 and the UNICEF strategic framework for the prevention of HIV/AIDS and sexually transmitted infections for 2003-2008 have included specific measures to meet the needs of refugee children orphaned by AIDS.

B. Military recruitment

29. A girl or a boy may be recruited compulsorily, forcibly or voluntarily by armed forces or groups. Unaccompanied and separated children are at particular risk of military recruitment. UNHCR, UNICEF and numerous other non-governmental organization partners actively advocate against the military recruitment of children in all circumstances. The Security Council, in its resolution 1379 (2001), requested the Secretary-General to list parties to armed conflict that recruit or use children. Therefore, in 2002, in his report on children in armed conflict (S/2002/1299, annex), the Secretary-General listed 23 parties to conflict who were found to be engaged in the recruitment or use, or both, of children in conflicts. Those 23 parties to conflict were involved in five country situations of which the Security Council was seized. In its resolution 1460 (2003) on children and armed conflict, the Security Council, inter alia, noted with concern the list annexed to the Secretary-General's report, called on the parties identified in that list to provide information on steps they had taken to halt their recruitment or use of children in armed conflict and requested the Secretary-General to submit a report on the implementation of resolution 1460 (2003) and of its previous resolution 1379 (2001).

30. For children, it is vital to provide alternatives to joining armed forces or groups. Preventive or rehabilitative measures taken during the reporting period have included enrolment in formal, non-formal and vocational education. It is, however, distressing to note that schools have at times been attacked for the purpose of forcibly recruiting children. Other measures have included income-generating activities, family reunification, psychosocial services and recreational activities. The provision of adequate food rations is also important in reducing the vulnerability to recruitment of displaced and war-affected children. Rehabilitation and reintegration

programmes have broadened their scope of attention to include children associated with the armed forces and groups who are not directly involved in fighting. This concerns mostly girls, who are all too often overlooked in demobilization and rehabilitation programmes. Pending reunification with their families, measures for the protection and care of girls in such situations are essential.

31. Unaccompanied and separated children have frequently been induced to accept military recruitment as a way to escape their situations in the camps, in the hope of better life opportunities. With thousands of people fleeing the ongoing civil war in Burundi, large numbers of children in refugee camps in the western part of the United Republic of Tanzania have lost contact with their parents or family members. UNICEF and the International Committee of the Red Cross have collaborated successfully in establishing inter-camp family tracing and reunification mechanisms in the region as part of the efforts to prevent military recruitment. In Uganda, safe shelters have been created by non-governmental organizations to accommodate unaccompanied and separated children from high-risk areas in the regions affected by war.

32. UNHCR has also faced constraints in monitoring child recruitment. For example, owing to security problems in West Timor, UNHCR could neither gain access to nor monitor unattended Timorese children, who were not properly taken care of and who faced the danger of being recruited for military purposes. Ex-combatants in the Democratic Republic of the Congo included unaccompanied and separated children who needed assistance not only to demobilize and reintegrate, but also to trace and be reunited with their families.

33. In an effort to map the needs of unaccompanied and separated adolescents exposed to military recruitment, UNHCR provided financial support to the participatory research studies on promoting the protection and capacity of adolescents affected by armed conflict by the Women's Commission for Refugee Women and Children. The studies, carried out in Uganda and Sierra Leone, produced findings and outcomes that are helping UNHCR, United Nations agencies, non-governmental organizations and Governments to reorient and improve programming for war-affected adolescents, including those who are unaccompanied and separated.

C. Sexual exploitation, abuse and violence

34. Unaccompanied and separated children face a particular risk of sexual exploitation, abuse and violence since they may not have a trusted adult to protect and assist them. As part of its overall strategy to address sexual and gender-based violence, UNHCR has developed specific strategies to meet the special protection needs of children. However, their effective implementation remains a challenge. Awareness of the incidence of sexual exploitation, abuse and violence was heightened by the allegations of exploitation that came to light in 2002 in West Africa, Nepal and elsewhere. The response of the Office of the United Nations High Commissioner for Refugees has been vigorous and has been directed at various levels. It has included prompt investigations and corrective actions where required, accompanied by programmes of support for victims. It is widely recognized that protection problems of this kind, which cannot be treated in isolation, have complex

causes, including lack of adequate resources, lack of access to essential services, problems created by family separation and the general climate of insecurity.

35. A global training and capacity-building strategy has included regional training and country level workshops, during which the special risks that unaccompanied and separated refugee children face were also addressed. In May 2003, UNHCR issued a revised version of *Sexual and Gender-based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response*. The guidelines contain a specific chapter on refugee children, highlighting the protection and assistance needs of unaccompanied and separated children, and will serve as a basis for further training involving both UNHCR and its partners. UNHCR launched a code of conduct for staff in September 2002, which is also being applied to the staff of its partners.

36. Furthermore, UNHCR, other United Nations agencies and non-governmental organization partners actively participated in the work of the Inter-Agency Standing Committee Task Force on Protection from Sexual Exploitation and Abuse in Humanitarian Crises, which was set up in March 2002, co-chaired by UNICEF and the Office for the Coordination of Humanitarian Affairs (OCHA). The Task Force was mandated to make recommendations that specifically aim to eliminate sexual exploitation and abuse by humanitarian personnel and the misuse of humanitarian assistance for sexual purposes. The Task Force developed a plan of action which was adopted by the principals of the Committee in July 2002.

37. UNICEF has developed further training initiatives for its staff and partners on the prevention of sexual abuse and sexual exploitation, with specific reference to HIV/AIDS. The training takes particular note of the increased vulnerability of separated children to sexual abuse and exploitation. Training took place for UNICEF staff and partners in conjunction with meetings on prevention of separation held prior to the Iraq crisis as well as in Southern Africa in 2002.

D. Education

38. Education is considered a key factor for bringing stability and security to children affected by armed conflict and forced displacement. In refugee and internal displacement settings during emergencies, education not only promotes healing and rehabilitation, but is also a compelling force for continuity and normalcy. Education is also regarded as the most effective initial means of ensuring protection for refugee children in general, and for unaccompanied and separated children in particular, by shielding them from exploitative activities such as child labour, military recruitment or sexual exploitation and abuse. However, the frequent lack of a birth certificate or any other documents makes it particularly difficult for unaccompanied and separated children to be enrolled in the education system in many countries. Furthermore, unaccompanied and separated children often have to provide for themselves in order to survive, and working is their only option. Nevertheless, education is particularly important for this group of children as a means of empowerment in the absence of parental care and protection mechanisms.

39. During 2002 and 2003, UNHCR intensified its efforts to ensure access and equity for girls in education. A project to assess refugee girls' education in the Horn and Eastern Africa points to the causes that have been researched elsewhere: the domestic workload and the opportunity cost of girls' education are the major social

factors that inhibit access and equity in girls' education. Another obstacle is the lack of school materials. These indicators are particularly applicable in the case of unaccompanied and separated children. Measures taken by UNHCR have focused on improving girls' access to and retention in the education system, in particular unaccompanied and separated girls. In Ethiopia, separate classes were established for middle and upper primary female students in order to help overcome the social and educational problems associated with girls' attendance in school. School feeding, provided in collaboration with the World Food Programme, was used as an incentive to keep girls in school. Save the Children Sweden contributed clothing for girls. Other important initiatives for enhancing girls' education, in particular for unaccompanied and separated girls, have included the introduction of female classroom assistants; teacher training; awareness-raising programmes (for both the community and the girls); recreational as well as educational activities; and capacity-building for teachers to ensure gender sensitivity. Attention has also been given to the provision of separate private latrines, sanitary materials and clothing. In South Africa, working through local implementing partners, UNHCR has continued to support unaccompanied and separated children by paying annual school fees as well as by providing them with food and accommodations. In addition, the right to participation and the specific needs of adolescents are being addressed through youth peer education (youth to youth) and youth peer educator camps as well as by workshops for young refugees, particularly on reproductive health.

40. In 2002, UNICEF, as the lead United Nations agency for education in Afghanistan, assisted the Ministry of Education in a nationwide back-to-school campaign, which also targeted returnee areas. UNICEF focused on the provision of classroom resources and education materials and on teacher training, the development of non-formal education strategies and the rehabilitation of schools damaged during the conflict. The second round of the UNICEF back-to-school campaign began in March 2003 and was aimed at opening up access to basic education for Afghan children. In 2003, 830,000 children entered the school system, adding to the almost 2.8 million who began in March 2002.

41. The United Nations Educational, Scientific and Cultural Organization (UNESCO), UNHCR and UNICEF have adopted a rapid educational response strategy that consists of a three-phase approach to the provision of education in complex emergencies: recreational/preparatory, non-formal education and the re-introduction of the formal curriculum. The "school-in-a-box" and recreation kits have been used successfully in over 30 countries. They have proven to be valuable resources in camps and communities for refugee and internally displaced children, where the school programmes have often led to other programme activities and fostered social change.

42. The Refugee Education Trust was established as an non-governmental organization working with UNHCR to promote the right of adolescents to education. Its primary function has been to advocate and raise funds for post-primary education for refugees, from which unaccompanied and separated adolescents have also benefited. The project has contributed to preventing exploitation, abuse and military recruitment. Refugee Education Trust programmes in Colombia, Guinea, Pakistan, Sierra Leone, Sudan, Uganda and the United Republic of Tanzania all have a strong girls' education component.

43. In attempting to prevent military recruitment, especially among unaccompanied and separated children, schools can play constructive roles through instruction in peace education and conflict resolution. The UNHCR Peace Education Programme operates in Côte d'Ivoire, the Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Kenya, Liberia, Sierra Leone and Uganda. By way of example, Peace Education was introduced in primary schools in the Albadaria camps in Guinea in December 2002. Moreover, schools with school-feeding programmes have shown an increased rate of enrolment and retention, especially among unaccompanied and separated children.

IV. Other concerns and challenges

A. Special protection needs of refugee girls

44. Unaccompanied or separated girls are particularly vulnerable to exploitation and abuse. While foster families are sought as the best interim solution for unaccompanied and separated refugee children, special attention has to be given to girls who are placed in the care of foster parents. Girls are at particular risk of being abused sexually, trafficked, or exploited as domestic workers or child labour. Few follow-up mechanisms are in place to monitor a girl's situation when the foster family leaves the camp setting. This concern therefore needs to be taken into consideration when seeking durable solutions. Another issue is the level of support or discrimination by foster siblings, which also plays a vital role in the well-being of the child. As girls are kept at home more often than boys, a foster home has a huge impact on their lives. Some girls prefer to preserve their sibling relationship rather than being split into different foster families, thus remaining together as a child-headed household. This can put a girl into the position of having to take on parental responsibilities for her siblings. Such a situation can render girls particularly vulnerable to exploitation and abuse and can cut off access to education, recreational activities and decision-making opportunities. Girls in this position should thus receive particular support and care, such as enabling their access to post-primary education, vocational training and income-generating activities. In Angola, for example, support is being provided by granting microcredit schemes to female heads of household in the camps.

45. In general, among unaccompanied and separated children, more boys than girls are registered. There are several reasons for this: girls tend to be more easily integrated into foster families before they reach the camps; they may be used as domestic workers and consequently not registered; they may be taken as "wives" by older men in the camps; or they may be trafficked out of the camps for different purposes. In the Kakuma refugee camp in Kenya, unaccompanied and separated girls were included in guardianship arrangements organized by the Sudanese community, and virtually all were integrated in foster families before their arrival in the camp. This pattern of guardianship did not extend to young Sudanese boys; hence the number of boys registered was much higher. Registration and follow-up on the well-being of refugee girls are thus essential.

46. In many instances, facilitating girls' access to education provides one of the most effective measures of protection from military recruitment, as well as from exploitation, abuse and violence. In 2002 and 2003, UNHCR therefore intensified its

efforts to ensure access to education for refugee girls. Those included a women's education programme that established two centres in the Kakuma camp, providing formal education to girls who had previously dropped out of school. Adolescent mothers who had abandoned education in South Sudan or in the Kakuma camp following early marriages or unwanted pregnancies were given an opportunity to receive formal education and/or other skills training. UNHCR is supporting a day-care centre for children while young mothers are in classes. Basic life skills are also being taught at girl drop-out centres.

B. Internally displaced children

47. Persons displaced through conflict within their own country, who may include children separated from their families with specific protection and assistance needs, often face extremely precarious situations. The Guiding Principles on Internal Displacement[6] remain the overall framework of the inter-agency response to internally displaced persons. The principles are based on human rights law, including the Convention on the Rights of the Child, and on international humanitarian law. They restate the relevant norms in all phases of internal displacement and pay special attention to the needs of internally displaced children. An increasing number of States, United Nations bodies and regional organizations and non-governmental organizations are making use of the Guiding Principles as the normative framework for the protection of internally displaced persons.

48. The Internal Displacement Unit, established in 2002 and based in OCHA, was created to provide support to United Nations country teams in responding to internal displacement. At the end of 2002, its mandate was extended to 2003. The Unit developed a guidance note to clarify a collaborative approach as the institutional framework for responding to crises of internal displacement. A protection survey was launched to assess how the protection of internally displaced persons, including children, was put into practice by United Nations country teams and other relevant actors, in collaboration with the State concerned. In addition, a response matrix for internally displaced persons was designed to try to identify the roles and activities of various Inter-Agency Standing Committee partners for internally displaced persons. The results of the response matrix should serve to provide benchmarks for future responses to internal displacement crises. The collaborative inter-agency approach is supported by UNHCR, which has been recognized through a series of General Assembly resolutions to have particular expertise in respect of internally displaced persons.

49. Training and capacity-building are important tools for the Unit. Over 17 workshops have been held in more than 10 countries with government representatives, international organizations and non-governmental organizations. In countries such as Serbia and Montenegro and Uganda, national authorities have shown interest in incorporating the principles into national law or policies.

50. During the past year, nascent peace in Afghanistan, Angola, Sierra Leone, Sri Lanka and Sudan created opportunities to improve substantially the lives of internally displaced children. Despite such encouraging progress, protection of internally displaced children proved difficult. Lack of respect for basic human rights and humanitarian principles and limited access to displaced populations continued to pose enormous challenges.

51. In September 2002, UNICEF and non-governmental organization partners established child-friendly spaces for about 4,000 displaced children living in camps near Monrovia, Liberia. Child-friendly spaces are intended partially to recreate the environment the children lost when they fled from fighting between rebels and government forces. The continuation of the activities is, however, subject to the necessary security conditions being available.

52. Considerable efforts are under way in Colombia to raise awareness of the plight of children affected by the armed conflict. UNICEF, UNHCR, government institutions and a wide range of civil society actors are involved in a variety of programmes to protect the rights and address the needs of these children. Children, including adolescents, are participating in peace activities at national and local levels. The Colombian Children's Movement for Peace has mobilized many sectors of Colombian society in its initiatives to promote peace, such as the "vote for peace" campaign. At the local level, important work is being done by non-governmental organizations providing psychosocial and educational assistance to displaced children. For example, in Mocoa, the capital of Putumayo province, CedaVida has organized a movement called "tropas de paz", integrating displaced and local children.

C. Building networks and partnerships

53. In 2002 UNHCR had a network of senior regional advisers for refugee children in Africa, in Central, South and West Asia, North Africa, the Middle East and Europe. The senior regional advisers continued to promote unaccompanied and separated refugee children's rights and a rights-based approach to programming, notably through collaborative efforts with Action for the Rights of Children and regional and national child protection networks, including other United Nations organizations such as UNICEF and OHCHR, and with child protection non-governmental organizations.

54. At United Nations Headquarters, UNHCR, UNICEF, ICRC, IRC, Save the Children UK and World Vision International continued to participate in the Inter-Agency Working Group on Unaccompanied and Separated Children which developed the Inter-Agency Guiding Principles on Unaccompanied and Separated Children, committing major child protection agencies to a common policy. Furthermore, since mid-2002, a strategic dialogue has taken place between UNHCR and UNICEF, with a view to strengthening the collaboration between the two organizations, to be followed by a revision of the 1996 memorandum of understanding. UNHCR is also participating in regular meetings and thematic discussions with the non-governmental organization subgroup on children in armed conflict, which includes consideration of the protection and assistance concerns of unaccompanied and separated children. The subgroup serves as an important body for information-sharing and discussion of policy issues.

55. UNHCR collaboration with host Governments has led to the creation of government posts and committees for the protection and care of children, including unaccompanied and separated refugee children. In countries where there are a number of such cases but no discernible efforts to meet their protection and assistance needs, UNHCR continues to work in partnership with UNICEF and other child protection agencies to ensure that the children's situation improves.

D. Registration

56. Registration is essential to protect the long-term interests of unaccompanied and separated refugee children. Its importance as a tool of protection, including protection against forcible recruitment, protection of access to basic rights, family reunification of refugees and identification of those in need of special assistance, was acknowledged by the UNHCR Executive Committee in its Conclusion[7] adopted in October 2001. In addition, in the Agenda for Protection it is recommended that States, UNHCR and other relevant partners use registration data to identify and make specific assistance and protection arrangements for unaccompanied and separated children.

57. A number of positive developments were noted during the reporting period, including in several African States. For example, Côte d'Ivoire introduced new legislation in early 2002, according the right to reside and work in the country to holders of refugee identity cards and asylum-seeker certificates. Although refugees were registered as a family unit, all family members over 14 years of age received a temporary card with a photo to ensure freedom of movement. Another example, already mentioned above in chapter III, was the close cooperation with other organizations such as UNICEF and the International Committee of the Red Cross on the use of a common registration form for the national family tracing and reunification programme of Angola.

58. In the spring of 2003, as part of the contingency planning for the potential emergency in Iraq, UNICEF, UNHCR, the International Committee of the Red Cross, the International Rescue Committee, Save the Children UK and World Vision International agreed on a regional inter-agency registration form for unaccompanied and separated children. Subsequently, the International Committee of the Red Cross and UNHCR further developed a generic inter-agency registration form for unaccompanied and separated children to be used globally. The form will be included in the revised UNHCR registration handbook, to be issued in September 2003, and is being considered for wider use by other concerned organizations.

E. Detention

59. Unaccompanied and separated children should never be detained for reasons related to their immigration status. Most States remain able to manage their asylum systems without detaining asylum-seeking children in any systematic way, in some cases using alternatives such as reporting and residency requirements, bonds, community supervision or open centres. In other cases where detention has been in use, the maximum detention period for asylum-seekers has been reduced. New legislation in Canada stipulates that children shall be detained only as a last resort, and that the best interests of the child must be taken into account. In some other countries however, detention has been more widely used since the terrorist attacks of 11 September 2001, sometimes on an apparently discriminatory basis, depending primarily on the country of origin. In several countries, all illegal entrants, including unaccompanied and separated children, have, regrettably, continued to be systematically detained, irrespective of increasing calls for less disproportionate and discriminatory measures. Where asylum-seekers have been detained in a manner broadly inconsistent with Executive Committee conclusions, UNHCR has sought to

monitor detention facilities, secure access to legal advice for those detained and promote alternatives to detention.

F. Follow-up to evaluations

60. *Meeting the Rights and Protection Needs of Refugee Children: An Independent Evaluation of the Impact of UNHCR's Activities*[8] was published by UNHCR in May 2002. The evaluation found that while the UNHCR overall policies relating to refugee children were sound, organizational obstacles hampered their implementation. The evaluation noted that the needs of unaccompanied and separated children had been widely recognized as a priority within UNHCR, and that progress was evident. Efforts to meet the protection needs of this group had been more consistently included in UNHCR's emergency response and global operations. Furthermore, the evaluation commended UNHCR for its increased utilization of stand-by agreements with Save the Children Norway and Save the Children Sweden during emergencies. Progress made included the identification of gaps with regard to the clarification of roles of different organizations, appropriate interim care arrangements and cross-border or subregional programme approaches.

61. There are close links between the issues raised in *Meeting the Rights and Protection Needs of Refugee Children* and those of two other reports, namely *UNHCR Policy on Refugee Women and Guidelines on Their Protection: An Assessment of Ten Years of Implementation*[9] and *The Community Services Function in UNHCR: An Independent Evaluation*.[10] UNHCR therefore decided to draw up a consolidated response to the findings and recommendations of all three reports, using a common methodology to define the implementation strategy.

V. Conclusion

62. **Clearly, over the past two years, progress has been made in a number of areas in addressing the protection and assistance needs of unaccompanied and separated refugee children. Cooperation has been strengthened among members of the United Nations system and with other partners, notably the International Committee of the Red Cross, non-governmental organizations and government counterparts. Positive results are evident in terms of training and capacity-building, commitments to common goals on critical child protection and assistance issues, entry into force of new human rights instruments and, at the national level, legislative changes raising child protection standards. Overall, there has been a more concerted focus on issues that previously received insufficient attention. The inter-agency agreement on common Guiding Principles on Unaccompanied and Separated Children is a further noteworthy example of progress.**

63. **Nevertheless, many serious challenges remain. Security concerns, insufficient human and financial resources, inadequate law enforcement systems to pursue child rights violations in a timely and effective manner, and, in certain cases, insufficient political will by States to comply with international standards relating to children continue to hamper the protection and safeguarding of the rights of refugee children, including those who are unaccompanied and separated.**

64. States that have not yet done so are urged to ratify the two Optional Protocols to the Convention on the Rights of the Child and to ensure implementation and monitoring of compliance with international instruments, as well as accountability for violations. Moreover, States and other stakeholders in civil society are encouraged to ensure that adequate resources are provided so as to allow refugee children to enjoy such rights as education, to which they are entitled, and to avoid the risk of their joining armed forces or groups or falling victim to sexual exploitation, abuse and violence.

65. Finally, there is a need for stronger, more persistent attention on the part of all actors involved with unaccompanied and separated refugee children to achieving more effective identification, registration, tracing and family reunification systems. Effective inter-agency cooperation and the involvement of the community, including the children themselves, are indispensable to the success of those efforts.

Notes

[1] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 12A* (A/57/12/Add.1), annex IV.

[2] *Official Records of the General Assembly, Fifty-seventh Session Supplement No. 12A* (A/57/12/Add.1), para. 21.

[3] See the web site of the Office of the United Nations High Commissioner for Refugees, http://www.unhcr.ch.

[4] See http://www.separated-children-europe-programme.org.

[5] General Assembly resolution S/27-2, annex.

[6] E/CN.4/1998/53/Add.2, annex.

[7] A/56/12/Add.1, para. 23.

[8] Valid International (Geneva, UNHCR, EPAU/2001/02).

[9] Women's Commission for Refugee Women and Children (New York, 2002).

[10] CASA Consulting (Geneva, UNHCR, EPAU/2003/02).

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Administration of justice at the United Nations

Administration of justice in the Secretariat: outcome of the work of the Joint Appeals Board during 2001 and 2002

Report of the Secretary-General

Summary

The present report is submitted in response to General Assembly resolution 55/258, which, in section XI, paragraph 5, had requested the Secretary-General to report to the Assembly on an annual basis on the outcome of the work of the Joint Appeals Board. In response to that request, the Secretary-General's report on the administration of justice in the Secretariat (A/56/800 of 13 February 2002) included information concerning the outcome of the work of the Board for 2000-2001. The present report provides information on the work of all Joint Appeals Boards for the year 2002; and, for comparative purposes, further contrasts the data for 2002 with those for 2001.

* A/58/150.

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Introduction

1. In section XI, paragraph 5, of its resolution 55/258 of 14 June 2001, the General Assembly requested the Secretary-General to report to the Assembly on an annual basis on the outcome of the work of the Joint Appeals Boards (JABs). In response to that request, the Secretary-General's report on the administration of justice in the Secretariat (A/56/800 of 13 February 2002) included information on the work of all JABs for the period 2000-2001. The present report provides information and numerical data on the work of the JABs for the year 2002.

Outcome of the work of the Joint Appeals Board

2. Table 1 below and its accompanying figures set out information, in numerical and graphic form, respectively, on the work of the JABs in New York, Geneva, Vienna and Nairobi for the years 2001 and 2002 by providing the number of appeals and suspension-of-action cases filed and disposed of[1] during that year.

3. As can be seen from table 1 and its figures, there was a substantial increase in the number of appeals filed with all JABs during 2002, with the largest share going to the New York JAB, which had received 23 more appeals than the year before, an increase of 29 per cent. As for the corresponding figures for the other JABs, the Geneva JAB received 10 more appeals in 2002 than in the year before, for an increase of 53 per cent; similarly, the Vienna JAB received 10 more appeals in 2002, for an increase of 200 per cent; and the Nairobi JAB received 1 more appeal, for an increase of 8 per cent.

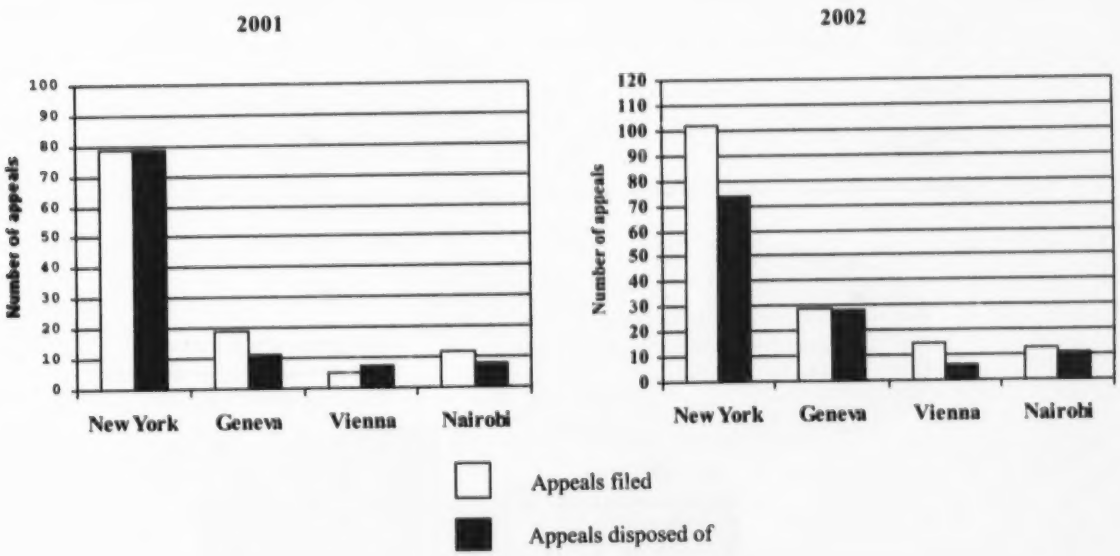
4. Another difference between the two periods concerns the number of cases disposed of by the JABs: while the number of cases disposed of by the New York JAB was slightly smaller than the number of cases disposed of during 2001, for a decrease of 6 per cent, the Geneva JAB disposed of 28 cases during 2002, thus achieving an increase of 155 per cent. The Vienna JAB disposed of one less case in 2002 than during 2001, thus showing a slight decrease of 14 per cent, while the figures for the Nairobi JAB indicate an increase in output of 38 per cent.

5. As for the number of pending appeals during the reporting period, it was effectively nil in the Vienna and Nairobi JABs, and rather modest in the Geneva JAB. However, the number of pending cases continued to be a problem for the New York JAB, which had in its docket some 150 pending appeals by the end of 2002. However, not all of those cases were ready for consideration by the JAB; indeed, the number of cases where the exchange of written pleadings between the parties had been completed was less than 50 by the end of 2002.

6. Disciplinary cases are also handled by the JAB secretariats and are always considered on a priority basis. In 2001, the New York Joint Disciplinary Committee (JDC) had considered eight disciplinary cases, whereas the Vienna and Nairobi JDCs considered one case each. In 2002, the New York JDC considered eight disciplinary cases and the Geneva JDC considered three disciplinary cases.

Table 1
Number of appeals and suspension-of-action cases filed and disposed of by all JABs in 2001 and 2002

Standing JABs	*2001*	*2002*	*Percentage change*
New York: appeals filed	79	102	+29
New York: appeals disposed of	79	74	-6
Geneva: appeals filed	19	29	+53
Geneva: appeals disposed of	11	28	+155
Vienna: appeals filed	5	15	+200
Vienna: appeals disposed of	7	6	-14
Nairobi: appeals filed	12	13	+8
Nairobi: appeals disposed of	8	11	+38



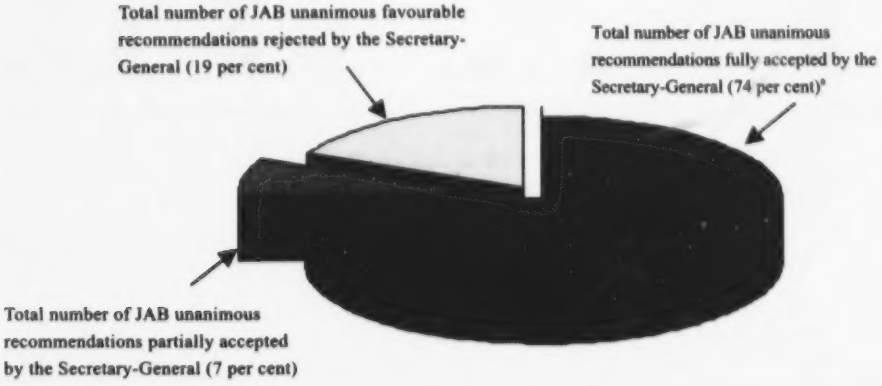
7. Table 2 and its accompanying figure provide information, in numerical and graphic forms, respectively, on the decisions taken by the Secretary-General on JAB reports for the years 2001 and 2002.

Table 2
Breakdown of decisions taken by the Secretary-General on unanimous JAB recommendations on appeals and requests for suspension of action in 2001 and 2002

2001

JAB reports from	*Total number of decisions on JAB reports*	*Total number of JAB unanimous recommendations*	*Total number of JAB unanimous recommendations fully accepted by the Secretary-General*	*Total number of JAB unanimous recommendations partially accepted by the Secretary-General*	*Total number of JAB unanimous favourable recommendations rejected by the Secretary-General*	*Total number of JAB unanimous unfavourable recommendations*
New York	61	59	41 (70%)	3 (5%)	15 (25%)	23 (39%)
Geneva	16	16	13 (81%)	3 (19%)	0	11 (69%)
Vienna	5	5	5 (100%)	0	0	4 (80%)
Nairobi	5	5	4 (80%)	0	1 (20%)	3 (60%)
Total	**87**	**85**	**63 (74%)**	**6 (7%)**	**16 (19%)**	**41 (48%)**

81% (full and partial acceptances)

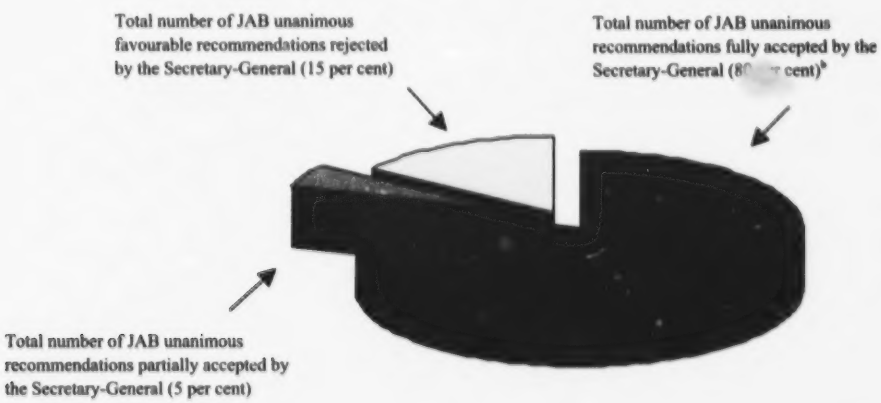

Total number of JAB unanimous favourable recommendations rejected by the Secretary-General (19 per cent)
Total number of JAB unanimous recommendations fully accepted by the Secretary-General (74 per cent)[a]
Total number of JAB unanimous recommendations partially accepted by the Secretary-General (7 per cent)

[a] Including the total number of JAB unanimous unfavourable recommendations (48 per cent).

2002

JAB reports from	*Total number of decisions on JAB reports*	*Total number of JAB unanimous recommendations*	*Total number of JAB unanimous recommendations fully accepted by the Secretary-General*	*Total number of JAB unanimous recommendations partially accepted by the Secretary-General*	*Total number of JAB unanimous favourable recommendations rejected by the Secretary-General*	*Total number of JAB unanimous unfavourable recommendations*
New York	60	56	42 (75%)	3 (5%)	11 (20%)	30 (54%)
Geneva	14	14	13 (93%)	1 (7%)	0	10 (72%)
Vienna	3	3	3 (100%)	0	0	3 (100%)
Nairobi	8	7	6 (86%)	0	1 (14%)	5 (72%)
Total	**85**	**80**	**64 (80%)**	**4 (5%)**	**12 (15%)**	**48 (60%)**

85% (full and partial acceptances)


Total number of JAB unanimous favourable recommendations rejected by the Secretary-General (15 per cent)
Total number of JAB unanimous recommendations fully accepted by the Secretary-General (80 per cent)[b]
Total number of JAB unanimous recommendations partially accepted by the Secretary-General (5 per cent)

[b] Including the total number of JAB unanimous unfavourable recommendations (60 per cent).

8. As can be seen from table 2 above and its accompanying figures for the years 2001 and 2002, the percentage of full and partial acceptances by the Secretary-General of the unanimous JAB recommendations was quite high (81 per cent for 2001 and 85 per cent for 2002). As for the percentage of rejections by the Secretary-General of unanimous JAB recommendations that were favourable to the appellants, it was relatively low in both periods and there was a noticeable decrease in 2002 (15 per cent as compared with 19 per cent in 2001).

9. This is in line with the stated policy of the Secretary-General, which is to normally accept unanimous recommendations, unless there is a compelling reason of

law or policy not to do so. In all such instances, the decisions of the Secretary-General provide detailed reasons for the rejection, which in most cases is attributable to the incorrect application of law or policy by the JAB or fact-finding that is inadequate and not supported by the available evidence. With the increased training for the JAB/JDC members in the applicable law and policies of the Organization and the availability of the Web-based repository of the recent jurisprudence of the Administrative Tribunal (encompassing jurisprudence on judgements rendered from 1980 onward), the Secretary-General trusts that unanimous recommendations will be more reliably supported by the evidence, as well as reflective of the applicable law, and that consequently the percentage of acceptable recommendations would rise. The Secretary-General would still have the discretionary authority, however, to reject unanimous JAB recommendations, should he find that it was in the interest of the Organization to do so.

Notes

[1] The term "disposed of" refers to appeals with respect to which the JAB has completed its involvement. The figures may include appeals that, though filed during a previous year, were disposed of in subsequent years owing to an existing backlog. This explains why, at times, the number of appeals disposed of is higher than the number of appeals filed.